

SENATE BILL No. 31

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-23-5-9.

Synopsis: State highway rights-of-way. Establishes notice and hearing procedures applying to the establishment by the Indiana department of transportation of rights-of-way for additions to the state highway system.

Effective: July 1, 2008.

Zakas, Landske, Broden, Arnold

January 8, 2008, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 31

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-23-5-9 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]: **Sec. 9. (a) The department may establish the approximate**
4 **locations and widths of rights-of-way for additions to the state**
5 **highway system.**

6 **(b) If the department establishes the approximate locations and**
7 **widths of rights-of-way for an addition to the state highway system**
8 **under subsection (a), the department shall conduct a public**
9 **hearing in at least one (1) county in which a right-of-way for the**
10 **addition is located. The department shall publish notice of a**
11 **hearing conducted under this subsection in one (1) newspaper of**
12 **general circulation in the county in which the hearing will be**
13 **conducted at least ten (10) days before the hearing.**

14 **(c) If the department establishes the approximate locations and**
15 **widths of rights-of-way for an addition to the state highway system**
16 **under subsection (a), the department shall prepare a map showing**
17 **the approximate location and width of each right-of-way for the**



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proposed addition. The map must display the following:

- (1) Existing highways in the area of the addition.
- (2) Property lines and owners of record of property to be acquired for the rights-of-way.
- (3) Other information determined necessary by the department.

The department shall approve the map, with changes (if applicable), at the public hearing conducted under subsection (b). The department shall record the approval and a copy of the approved map in the office of the recorder of each county in which land to be acquired for the addition is located.

(d) The department shall:

- (1) publish notice of a recording under subsection (c) in one (1) newspaper of general circulation in each county in which an approval is recorded; and
- (2) not more than sixty (60) days after an approval is recorded, send notice of the recording by certified mail to all owners of record of real property to be acquired for rights-of-way for the addition.

(e) The department may approve and record additional changes to a map approved under subsection (c) without a hearing. The department shall provide notice of a recording under this subsection according to subsection (d).

(f) The owner of property to be acquired for a right-of-way must give at least sixty (60) days notice by registered mail to the department before developing or otherwise improving the property. However, the owner may perform normal or emergency repairs to existing structures on the property without giving notice to the department.

(g) Not more than forty-five (45) days after receiving a notice under subsection (f), the department shall respond by providing notice to the property owner of the department's intent to acquire the property. The department shall:

- (1) purchase; or
- (2) exercise the right of eminent domain to acquire;

the property not more than one hundred eighty (180) days after responding under this subsection.

(h) An owner of property to be acquired for a right-of-way may not receive damages for any development or improvement for which the owner is required to give notice to the department under subsection (f) unless the department fails to purchase or exercise the right of eminent domain to acquire the property under

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1 subsection (g).

2 (i) The state or a county or municipality in which an addition to
3 the state highway system is located may acquire a right-of-way
4 needed for the addition at any time. For purposes of this
5 subsection, the fair market value of the property shall be
6 determined as follows:

7 (1) If the property is purchased, the fair market value on the
8 date of purchase.

9 (2) If the property is acquired by eminent domain, the fair
10 market value on the date on which the complaint in
11 condemnation was filed.

12 However, if the property is agricultural land, the fair market value
13 shall be determined under IC 32-24-1.

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